

**IN UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

MOTION TO REMAND

Plaintiff moves this Honorable Court, pursuant to 28 U.S.C. §1447, to remand this case to the Circuit Court of Bullock County, Alabama, for the following reasons:

1. This Court lacks subject matter jurisdiction over this action.
2. There is no “federal question” to afford this Court jurisdiction pursuant to 28 U.S.C. §1331 because:
 - (a) This case does not arise under the Constitution, laws, or treatise of United States; and
 - (b) The only claims asserted by Plaintiff are for violations of Alabama law.
3. Removal is improperly based on the grounds of diversity of citizenship. Defendants Kimberly Singleton, Pat Porter and Roy T. Evans have not been fraudulently joined and this Court should consider their citizenship.
4. Removal is improper, because Defendants fail to prove that the amount in controversy is satisfied.

5. These issues will be addressed in the Memorandum Brief filed with this Motion.

/s/ Charles Lance Gould
C. LANCE GOULD (GOU007)
Attorney for Plaintiff

OF COUNSEL:

**BEASLEY, ALLEN, CROW,
METHVIN, PORTIS & MILES, P.C.**
Attorneys at Law
Post Office Box 4160
Montgomery, AL 36103-4160
(334) 269-2343
(334) 954-7555 (fax)

CERTIFICATE OF SERVICE

I hereby certify that on this the 5th day of December 2005, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

/s/ Charles Lance Gould
OF COUNSEL

Robert H. Rutherford
David A. Elliott
Matthew T. Mitchell
Burr & Forman LLP
3100 SouthTrust Tower
420 North 20th Street
Birmingham, Alabama 35203
Telephone: (205) 251-3000
Facsimile: (205) 458-5100